

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

SFA SYSTEMS, LLC,

Plaintiff

vs.

NO. 6:09-cv-340-LED

- 1. 1-800-FLOWERS.COM, INC.;**
- 2. THE PLOW & HEARTH, INC.,
INCLUDING D/B/A WIND &
WEATHER, INC.;**
- 3. THE POPCORN FACTORY,
INC.;**
- 4. WINETASTING NETWORK
INC.;**
- 5. THE CHILDREN'S GROUP,
INC.;**
- 6. PROBLEM SOLVERS, INC.;**
- 7. BARNES & NOBLE, INC.;**
- 8. BARNESANDNOBLE.COM LLC;**
- 9. BLOCKBUSTER INC.;**
- 10. BUILD-A-BEAR WORKSHOP,
INC.;**
- 11. CDW CORPORATION;**
- 12. GAMESTOP CORP.;**
- 13. GAMESTOP, INC.;**
- 14. GAMESTOP.COM, INC.;**
- 15. GANDER MOUNTAIN
COMPANY;**
- 16. OVERTON'S INC.**
- 17. J & R ELECTRONICS INC.;**
- 18. NEWEGG INC.**
- 19. NEWEGG.COM INC.**
- 20. NORTHERN TOOL &
EQUIPMENT
COMPANY;**
- 21. NORTHERN TOOL AND
EQUIPMENT CATALOG CO.;**
- 22. OFFICE DEPOT, INC.;**
- 23. OMAHA STEAKS
INTERNATIONAL,
INC.;**
- 24. OMAHASTEAKS.COM, INC.;**
- 25. THE TIMBERLAND**

COMPANY;
26. TUPPERWARE BRANDS
CORPORATION; and
27. TUPPERWARE.COM, INC.,

Defendants.

ANSWER TO COMPLAINT AND AFFIRMATIVE DEFENSES

Defendants, Omaha Steaks International, Inc. and OmahaSteaks.com, Inc. (hereinafter jointly referred to as “Omaha Steaks”) hereby respond to the Complaint and Demand for Jury Trial filed by Plaintiff SFA Systems, LLC (“SFA”) as follows. Unless specifically admitted, all allegations in the Complaint are denied:

PARTIES

1. Omaha Steaks is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 1, and therefore denies them.
2. Omaha Steaks is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 2, and therefore denies them.
3. Omaha Steaks is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 3, and therefore denies them.
4. Omaha Steaks is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 4, and therefore denies them.
5. Omaha Steaks is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 5, and therefore denies them.
6. Omaha Steaks is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 6, and therefore denies them.

7. Omaha Steaks is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 7, and therefore denies them.

8. Omaha Steaks is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 8, and therefore denies them.

9. Omaha Steaks is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 9, and therefore denies them.

10. Omaha Steaks is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 10, and therefore denies them.

11. Omaha Steaks is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 11, and therefore denies them.

12. Omaha Steaks is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 12, and therefore denies them.

13. Omaha Steaks is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 13, and therefore denies them.

14. Omaha Steaks is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 14, and therefore denies them.

15. Omaha Steaks is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 15, and therefore denies them.

16. Omaha Steaks is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 16, and therefore denies them.

17. Omaha Steaks is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 17, and therefore denies them.

18. Omaha Steaks is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 18, and therefore denies them.

19. Omaha Steaks is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 19, and therefore denies them.

20. Omaha Steaks is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 20, and therefore denies them.

21. Omaha Steaks is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 21, and therefore denies them.

22. Omaha Steaks is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 22, and therefore denies them.

23. Omaha Steaks is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 23, and therefore denies them.

24. Omaha Steaks International, Inc. admits that it maintains its corporate headquarters and principal place of business at 11030 O St., Omaha, NE 68137. Omaha Steaks denies the remaining allegations of Paragraph 24.

25. OmahaSteaks.com, Inc. admits the allegations of Paragraph 25.

26. Omaha Steaks is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 26, and therefore denies them.

27. Omaha Steaks is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 27, and therefore denies them.

28. Omaha Steaks is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 28, and therefore denies them.

JURISDICTION AND VENUE

29. Omaha Steaks admits that this action purports to be a civil action for patent infringement, but denies that SFA is entitled to any recovery. The allegations of this paragraph constitute legal conclusions for which no answer is required or given.

30. The allegations of this paragraph constitute legal conclusions for which no answer is required or given.

31. The first sentence of this paragraph constitutes a legal conclusion for which no answer is required or given. Omaha Steaks denies the remaining allegations of Paragraph 31 as they pertain to Omaha Steaks. Omaha Steaks is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 31 as they pertain to the other defendants, and therefore denies them.

INFRINGEMENT OF U.S. PATENT NO. 6,067,525

32. Omaha Steaks admits that U.S. Patent No. 6,067,525 (the “‘525 Patent”) is entitled “Integrated Computerized Sales Force Automation System”, and that the face of the ‘525 Patent lists SFA as “Assignee”. Omaha Steaks further admits that a copy of the ‘525 Patent was purported to be attached as Exhibit A to SFA’s Complaint. Omaha Steaks is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 32, and therefore denies them.

33. Omaha Steaks admits that a copy of the Memorandum Opinion in Case No. 6:07 CV 067 in the United States District Court for the Eastern District of Texas, Tyler Division, was purported to be attached as Exhibit B to SFA’s Complaint. Omaha Steaks is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 33, and therefore denies them.

34. Omaha Steaks is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 34, and therefore denies them.

35. Omaha Steaks is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 35, and therefore denies them.

36. Omaha Steaks is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 36, and therefore denies them.

37. Omaha Steaks is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 37, and therefore denies them.

38. Omaha Steaks is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 38, and therefore denies them.

39. Omaha Steaks is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 39, and therefore denies them.

40. Omaha Steaks is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 40, and therefore denies them.

41. Omaha Steaks is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 41, and therefore denies them.

42. Omaha Steaks is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 42, and therefore denies them.

43. Omaha Steaks is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 43, and therefore denies them.

44. Omaha Steaks is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 44, and therefore denies them.

45. Omaha Steaks is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 45, and therefore denies them.

46. Omaha Steaks is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 46, and therefore denies them.

47. Omaha Steaks is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 47, and therefore denies them.

48. Omaha Steaks is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 48, and therefore denies them.

49. Omaha Steaks is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 49, and therefore denies them.

50. Omaha Steaks is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 50, and therefore denies them.

51. Omaha Steaks is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 51, and therefore denies them.

52. Omaha Steaks is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 52, and therefore denies them.

53. Omaha Steaks is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 53, and therefore denies them.

54. Omaha Steaks is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 54, and therefore denies them.

55. Omaha Steaks is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 55, and therefore denies them.

56. Omaha Steaks denies the allegations of Paragraph 56.

57. Omaha Steaks denies the allegations of Paragraph 57.

58. Omaha Steaks is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 58, and therefore denies them.

59. Omaha Steaks is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 59, and therefore denies them.

60. Omaha Steaks is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 60, and therefore denies them.

61. Paragraph 61 of SFA's Complaint does not contain any factual allegations for which an answer is required or given.

62. Omaha Steaks is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 62, and therefore denies them.

63. Omaha Steaks is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 63, and therefore denies them.

64. Omaha Steaks denies that SFA is entitled to any recovery in this action. The allegations contained in Paragraph 64 constitute legal conclusions for which no answer is required or given.

PRAYER FOR RELIEF

Paragraphs 1 through 6 under the heading "Prayer for Relief" of SFA's Complaint set forth the statement of relief requested by SFA to which no response is required. Omaha Steaks denies that SFA is entitled to any of the relief requested in the above-referenced Paragraphs 1 through 6.

FIRST AFFIRMATIVE DEFENSE

Omaha Steaks does not infringe and has not infringed, either directly, contributorily, or by inducement, any valid claim of the '525 Patent.

SECOND AFFIRMATIVE DEFENSE

The claims of the '525 Patent are invalid for failure to satisfy one or more of the requirements of Section 100, et. seq., 102, 103, and/or 112 of Title 35 of the United States Code.

THIRD AFFIRMATIVE DEFENSE

SFA's claims are barred, in whole or in part, under the doctrine of estoppel, including prosecution history estoppel.

FOURTH AFFIRMATIVE DEFENSE

SFA's claims are barred, in whole or in part, under the doctrine of waiver.

FIFTH AFFIRMATIVE DEFENSE

SFA's claims are barred, in whole or in part, under the doctrine of laches.

SIXTH AFFIRMATIVE DEFENSE

SFA's claims are barred, in whole or in part, under the doctrine of unclean hands.

SEVENTH AFFIRMATIVE DEFENSE

SFA's claims are barred, in whole or in part, in that SFA's Complaint fails to state a claim for which relief may be granted.

EIGHTH AFFIRMATIVE DEFENSE

SFA is barred from recovering any damages, in whole or in part, due to SFA's failure to reasonably mitigate its damages, if any.

NINTH AFFIRMATIVE DEFENSE

SFA's claims are barred, in whole or in part, due to a lack of standing.

TENTH AFFIRMATIVE DEFENSE

Omaha Steaks reserves all affirmative defenses under Rule 8(c) of the Federal Rules of Civil Procedure, the Patent Laws of the United States and any other defenses, at law or in equity, that may now exist or in the future be available based on discovery and further factual investigation in this case.

ELEVENTH AFFIRMATIVE DEFENSE

Venus is improper as to Omaha Steaks.

Dated: September 23, 2009

Respectfully submitted,

/s/ Gregory P. Love

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ATTORNEYS FOR DEFENDANTS
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CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a). As such, this pleading was served on all counsel who are deemed to have consented to electronic service. Local Rule CV-5(a)(3)(A). Pursuant to Fed. R. Civ. P. 5(d) and Local Rule CV-5(d) and (e), all other counsel of record not deemed to have consented to electronic service were served with a true and copy of the foregoing by email, on this the 23rd day of September, 2009.

/s/ Gregory P. Love _____
Gregory P. Love